



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,696	09/08/2003	Douglas J. Menkedick	8266-0880	1212

25267 7590 06/07/2005  
BOSE MCKINNEY & EVANS LLP  
135 N PENNSYLVANIA ST  
SUITE 2700  
INDIANAPOLIS, IN 46204

EXAMINER
----------

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
3673	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/657,696	MENKEDICK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert G. Santos	3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/08/03, 1/20/04, 4/22/04 and on 3/08/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 23-50 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,17 and 19-22 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,10,14,15 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01202004, 04222004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

*Handwritten initials/signature*

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 23-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on March 8, 2005.

### ***Claim Objections***

2. Claims 1 and 18 are objected to because of the following informalities:

- 1) In claim 1, line 13: The term --frame-- should be inserted after the term "intermediate."
- 2) In claim 18, lines 2 and 3: The term "member" should be changed to --members--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3673

4. Claims 1, 2, 4 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. No. 3,317,931 to Benoit et al. (note especially Figures 1-3; column 1, lines 67-72; and column 2, lines 1-36).

5. Claims 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,586,492 to Manahan. Manahan '492 shows the claimed limitations of a patient support comprising a base frame (14), an intermediate frame (16), a mattress (12) supported by the intermediate frame and defining a patient rest surface, and a lift mechanism (30) configured to move the intermediate frame between raised and lowered positions relative to the base frame, at least one of the base and intermediate frames defining an interior region in which the other of the at least one of the base and intermediate frames is positioned when the intermediate frame is in the lowered position (as shown in Figure 2 and as described in column 2, lines 54-58 & 62-65 and in column 6, lines 7-17), at least one of the base and intermediate frames including transverse step members (41-44) extending from the interior region, wherein the intermediate frame includes the transverse step members, and wherein the transverse step members are positioned directly over a pair of longitudinally extending members of the base frame (as shown in Figures 1 & 2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benoit et al. '931 in view of U.S. Pat. No. 5,715,548 to Weismiller et al. Benoit et al. '931 lack the use of means for providing pressurized air to the mattress, means for blocking egress of a patient from the mattress, foot control means for operating features of the patient support, power and control means for providing power and control to the actuator, rotational support means configured to permit movement of the frame on a floor, control means for controlling features of the patient support, the control means being removably coupled to the blocking means, mattress control means for controlling operation of the mattress, power supply means for providing power to components of the patient support, and network means for communicating between at least two of the power and control means, the control means, the block means, and mattress control means. Weismiller et al. '548 provide the basic teaching of a patient support (50) comprising means for providing pressurized air (1014) to a mattress (550) supported thereon, means for blocking egress (800, 802, 804, 806) of a patient from the mattress, foot control means (250) for operating features of the patient support, power and control means (1018) for providing power and control to the actuator, rotational support means (70, 72, 74, 76) configured to permit movement of the frame on a floor, control means (1028, 1030) for controlling features of the patient support, the control means being removably coupled to the blocking means (as described in column 66, lines 25-31), mattress control means (1024) for controlling operation of the mattress, power supply means (1062) for providing power to components of the patient support, and network means (1012, 1013) for communicating between at least two of the power and control means, the control means, the block means, and mattress control means. The skilled artisan would have

Art Unit: 3673

found it obvious at the time the invention was made to provide the patient support of Benoit et al. '931 with means for providing pressurized air to the mattress, means for blocking egress of a patient from the mattress, foot control means for operating features of the patient support, power and control means for providing power and control to the actuator, rotational support means configured to permit movement of the frame on a floor, control means for controlling features of the patient support, the control means being removably coupled to the blocking means, mattress control means for controlling operation of the mattress, power supply means for providing power to components of the patient support, and network means for communicating between at least two of the power and control means, the control means, the block means, and mattress control means in order to provide and facilitate specialized care for a patient, "thereby reducing the number of times the [patient] is transferred from one bed to another" (see Weismiller et al. '548, column 2, lines 1-11).

***Allowable Subject Matter***

8. Claims 3, 5, 6, 10, 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The examiner respectfully asserts that one of ordinary skill in the art would not have found it obvious to modify the patient support of Benoit et al. '931 to include the use of an intermediate frame which is positioned *between the first and second cross members* and nests *within the base frame* as well as the use of lift arms which are positioned *between the intermediate and base frames* when the intermediate frame is in a second (lowered) position as particularly recited in claims 3, 5 and 6. Furthermore, the examiner

Art Unit: 3673

respectfully asserts the one of ordinary skill in the art would not have found it obvious to modify the patient support of Manahan '492 to include the additional structure of a plurality of load cells *supported by the transverse step members* as recited in claim 9, nor would it have been obvious to modify the patient support of Manahan '492 to include the specific lift arm and transverse step member configurations as recited in claims 14 and 15, respectively.

9. Claim 18 is objected to but would be allowable if rewritten to overcome the minor informalities above and in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Osborne et al. '765, Hensley '358, Osborne et al. '346, Antinori '011, Hensley '828, Weismiller et al. '238, Hasegawa '932, King et al. '862 and Wilson '917.

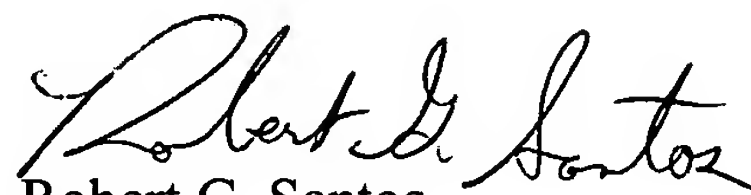
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
May 31, 2005